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Summary record of the 2778th meeting*
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Chairperson: Ms. Majodina

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* No summary records were issued for the 2776th and 2777th meetings.

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The meeting was called to order at 3.05 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant (*continued*)

Third periodic report of Slovakia
(CCPR/C/SVK/3, CCPR/C/SVK/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the members of the delegation of Slovakia took places at the Committee table.*

2. **Mr. Koterec** (Slovakia), presenting the third periodic report of Slovakia covering the period November 2001 to December 2008, said that Slovakia had made significant progress in implementing civil and political rights since its last periodic report. Its existing legislative, institutional and procedural mechanisms for the protection of human rights met the highest European standards.

3. Proper implementation of the Covenant required an appropriate legislative framework and, in 2004, Parliament had adopted the Anti-discrimination Act that provided protection against all forms of discrimination and enabled victims to seek adequate judicial remedies. The Act also extended the powers of the National Centre for Human Rights, whose main tasks included the provision of legal assistance to victims of discrimination and intolerance. The Centre, which was an autonomous body, published annual reports on the observance of human rights in Slovakia.

4. The Government itself regularly updated its Action Plan for the Prevention of All Forms of Discrimination, Racism, Xenophobia and Other Expressions of Intolerance and had enacted a new Criminal Code that had come into force at the beginning of 2006 and facilitated the promotion of civil and political rights.

5. The principle of equal opportunities was enshrined in all relevant laws and regulations. The Labour Code ensured equal treatment for men and women in access to employment, remuneration, career development and vocational training. Support for family services had been increased, among other measures aimed at reconciling family and professional life.

6. The twelve national minorities in Slovakia were perceived as an asset enriching society and their rights were guaranteed by the Constitution and more than 30 specific laws. In addition, the Government had undertaken to create the conditions for members of national minorities to exercise their right to participate in public affairs and had established the Council for Human Rights, National Minorities and Gender Equality as a permanent advisory body empowered to issue opinions on Slovakia's compliance with its international commitments in the area of human rights and to intervene in the relevant reporting procedures. The Government had created the post of Deputy Prime Minister for Human Rights and Minorities to oversee the implementation and observance of human rights, equal treatment and gender equality.

7. The Government's Plenipotentiary for Roma Communities, an advisory body, had implemented comprehensive measures to improve the situation of those communities and facilitate their social integration. Despite slow progress, the Government was committed to supporting their full participation in the country's social, cultural and political life based on their status as a national minority. A five-year plan was under way aimed at creating a more favourable environment for marginalized Roma communities based on permanent social development, particularly in the area of education, health, employment and housing.

8. Dialogue between the Government and non-governmental organizations (NGOs) took place mainly through the official NGO Council set up to support humanitarian and charitable organizations.

9. Since Slovakia's accession to the European Union and the Schengen Area, the number of foreigners residing in the country had continued to rise, and directives regulating the status and rights of European Union nationals had been incorporated into domestic law in order to stabilize their legal situation. Meanwhile, the number of asylum-seekers had decreased, and asylum was granted to only a fraction of applicants, owing mainly to non-compliance with the relevant criteria.

10. **Ms. Motoc**, referring to question 1 on the list of issues (CCPR/C/SVK/Q/3), requested information on any measures taken to encourage domestic courts to invoke the Covenant. Slovakia had made an effort to implement international laws, but its approach was possibly more in keeping with the European Court of Human Rights than the United Nations Human Rights Committee.

11. The Committee believed that it was vital to give the Constitutional Court jurisdiction with regard to

international treaties so that it could ensure compatibility between such treaties and domestic legal provisions. According to the written reply to question 2, the Government had been unable to amend the Constitution as recommended, in part owing to upcoming elections. The elections having taken place, reports from NGOs indicated that the new Government was determined to protect human rights. It would therefore be useful to know whether it was interested in amending the Constitution, a procedure that required a majority vote in Parliament, and whether the Government could count on sufficient support to attain that majority.

12. Some years earlier, the Constitutional Court had declared that there were limits to positive discrimination. The Committee required more information on the constraints imposed by that ruling.

13. Regarding the protection of minorities, the Council of Europe had recently issued a report that raised concerns about the health care, social protection, housing and, above all, education of the Roma population. Based on the most recent reports by NGOs working with people with disabilities, many Roma children had been placed in special classes for disabled children on the grounds that the Roma did not have the same intellectual capacity as other Slovak children. She wondered if programmes had been established to replace special education for those children. Unemployment was extremely high among the Roma, especially in urban areas, and it would be useful to know what measures Slovakia was taking to overcome the problem, which was common to all European countries with Roma communities.

14. The Committee understood that Slovakia had taken some measures with regard to the sterilization of Roma women (question 12). Nevertheless, several NGOs had reported that the practice continued and, although hospitals required consent, there was concern that it might not be informed consent owing to low levels of education among the Roma community.

15. Throughout Europe the Roma were stereotyped, affecting their integration into society. The Committee would like to know to what extent stereotypes had been eliminated in Slovakia, and also the exact size of the Roma community. It appeared that the figure cited in the most recent census was incorrect, because many Roma did not declare themselves as such fearing discrimination. The delegation should explain how Slovakia was planning to obtain better official statistics.

16. Regarding question 7, Slovakia had ratified the Convention on the Rights of Persons with Disabilities and had drawn up legislation to implement it. The report provided many examples of policies, but the Committee would appreciate additional information about the actual results; also whether the country had professionals trained to work with people with disabilities and what specific actions had been taken to assist them.

17. Impressive statistics had been provided on gender equality. However, it would be useful to know how many women occupied senior positions in both the public and the private sector. It appeared that, as in other former communist countries, most Slovak women opposed the introduction of a quota system, which led to the question whether women had truly been educated about their rights.

18. **Mr. Bouzid**, referring to question 3, said that the actual legislation regulating the National Centre for Human Rights did not conform to the principle of equality, nor did the law provide it with sufficient authority to defend human rights. The Centre did not report to Parliament or any other institution and played no role whatsoever in encouraging the State to ratify international human rights treaties or to adapt national legislation to such instruments. Moreover, its current composition did not guarantee sufficient representation to civil society and those working to promote human rights in Slovakia; lastly, it did not enjoy financial independence.

19. In its written reply, Slovakia had said that the Government planned to introduce changes to bring the Centre in line with the Paris Principles as part of the amendment to the Act on the establishment of the Centre; clarification was required as to when the process of amending the act would take place. It would also be useful to know whether the Centre played a mediation role, whether individuals had recourse to mediation, whether mediation resulted in reparations and, if so, the type of reparations awarded. Furthermore, did the Centre conduct research to assess the public's understanding of its rights? Lastly, he asked about the relationship between the Centre and the office of the Ombudsman, which had been established to protect human rights.

20. Regarding non-discrimination (question 4), the Anti-discrimination Act was important, but several Government and NGO reports indicated that the law had not been implemented. The courts had heard very few cases relating to discrimination and those examined had frequently been filed by civil society, which assumed the costs. Moreover, the courts did not accord importance to cases involving the Roma. According to the periodic report (para. 26), the National Centre for Human Rights was processing petitions and complaints concerning discrimination, but NGOs reported that it did not bring cases before the courts; that contradiction should be clarified. He also wondered how willing the Government was to work with civil society to implement legislation on non-discrimination.

21. Additional information was required on the measures taken by the State to ensure that discrimination did not lead to racial violence, whether there was statistical evidence that such measures had resulted in a decline in such violence and what other minorities in addition to the Roma suffered from racial violence.

22. The report referred to the procedure for expelling aliens suspected of committing certain crimes; however, the European Court had asked the Government not to extradite them owing to the risk of torture in their countries of origin. The Committee would like to know the Government's position on that issue. Article 62 of the Act on aliens defined the situation of foreigners who were legally resident in the country in respect of extradition; however, the delegation should explain the situation with regard to illegal residents.

23. The integration of refugees (question 9) was currently financed by the European Union. It was unclear why the State did not have an integration programme.

24. Regarding question 12, the Government had amended the law on sterilization and introduced the concept of informed consent. However, based on reports by NGOs, the amendment had not been applied, and it would be interesting to know whether hospitals had adopted ad hoc measures to obtain consent. The Government's assessment of the situation had focused on the period 1992-2000 rather than the entire communist era and looked only at genocide while ignoring other possible crimes; in addition, it failed to examine the situation of non-Roma women. He wished to know whether the Government had created an independent committee to examine the matter and to provide reparation, since most victims could not afford to file a case before the courts.

25. **Ms. Chanet** said that the delegation should provide further clarification why the Covenant was not invoked by the Constitutional Court. Was the constitutional amendment the only legal obstacle or did judges and lawyers have insufficient knowledge of the Covenant? The delegation had mentioned that reforms were under way to give the Constitutional Court jurisdiction in the application of international treaties, but they were dependent on the Government obtaining a sufficient parliamentary majority; it would be interesting to know whether an alternative solution existed.

26. The Committee also required more information on the October 2005 Constitutional Court ruling, since it appeared that the decision condemned positive discrimination and could lead to an abuse of human rights. The Committee needed to be able to read the ruling so that members could grasp its implications and understand how discrimination was combated in Slovakia.

27. When describing the steps taken to eliminate discrimination on the basis of sexual orientation (question 8), the State had indicated that sexual orientation was tacitly included in the 2008 amendment to the Anti-discrimination Act. However, although laws were necessary, practice was more important. Accordingly, the delegation should clarify whether such discrimination was prohibited and whether there was a body that specifically monitored the situation. It should also provide examples of good practice and of the punishments imposed on those guilty of discrimination.

28. Forced sterilization based on systematic plans or ethnic origin was one of the most serious international crimes. The new law had gone some way towards mitigating the problem and established the concept of consent. Nevertheless, NGOs believed that forced sterilization persisted. She asked whether the Government had taken measures to elucidate such cases and to monitor informed consent. It was unclear how people expressed their consent and how they understood it, and how those who were illiterate gave consent. She asked if there was a medical ethics

committee and how systematically leading people to choose sterilization could be justified.

29. **Mr. Iwasawa** said that Slovakia was one of few countries where the Constitution provided explicitly that international human rights law prevailed over domestic laws. However, it was to no avail if the Covenant was not invoked before the courts. He asked whether citizens were aware of the Covenant and whether sufficient efforts were being made to disseminate information on its provisions.

30. On the issue of violence against women (question 11), it appeared that the National Action Plan for the Prevention and Elimination of Violence against Women had taken the recommendations of the Committee on the Elimination of Discrimination against Women into account. Nevertheless, concerns remained because the report (para. 65) referred to secondary victimization by bodies applying legislation. The delegation should provide further information and explain the problems that had occurred and the measures that had been taken to address them. Both the report and the written replies stated that victims of violence against women need not give consent to the prosecution of an offence. Consequently, the Committee wanted to know how the State could ensure that the victim's will was sufficiently respected; the delegation should also explain the procedure and the role of the victim.

31. The statistics on sentenced offenders and on the sentences handed down to perpetrators were appreciated, but there was insufficient information on the types of sanctions. Were sanctions other than imprisonment available, such as restraining orders or fines? According to the written replies, marital rape was a criminal offence. Nevertheless, since rape could involve many complex issues, further information was required; for example, the delegation should clarify whether marital rape was viewed as a crime by the courts in practice, and give examples of cases. The list of issues had invited the State party to comment on the allegedly low reporting rate of sexual violence against women; since no information had been provided in the written replies, he asked for the delegation's comments.

The meeting was suspended at 4.15 p.m. and resumed at 4.45 p.m.

32. **The Chairperson** invited the members of the delegation to respond to the questions raised by the Committee.

33. **Ms. Vozáryová** (Slovakia), addressing the issues raised in relation to questions 1 and 2, said that the Constitution established the hierarchy of international treaties within Slovak legislation, and international human rights treaties had supremacy over domestic law. Regarding the jurisdiction of the Constitutional Court to rule on the compatibility of domestic legislation with all international treaties, not only those concerning human rights, the Constitutional Court acted when asked to do so by the President, following Parliament's agreement, or on its own volition. There was an ongoing debate in Parliament, led by the Ministry of Justice, regarding the primary responsibility for initiating action.

34. Regarding the application of the Covenant by the courts, international treaties ratified by Slovakia were incorporated into domestic law, and thus transformed into specific legal entitlements. Individuals had recourse to domestic law if they considered that their rights had been violated.

35. **Ms. Jančulová** (Slovakia), addressing the questions on discrimination and related issues, said that the Anti-discrimination Act reflected the fact that the Constitutional Court had ruled that the aim of temporary positive measures was to ensure due process when dealing with inequalities so that unequal situations were dealt with appropriately. According to the Constitutional Court's findings, the aim of temporary positive measures was merely to eliminate the consequences of prior discrimination and unequal opportunities. Consequently, in 2008, the Anti-discrimination Act had been amended for the second time to establish temporary positive measures that could be applied if there had been proven discrimination in order to remove or decrease the inequity; also to expand the coverage of the law and to help remove the social and economic disadvantages resulting from age and disability. The Act included measures aimed at supporting the interests of members of disadvantaged groups and communities, promoting their access to education, health care, culture and housing services, creating equal opportunities in access to job training and employment, and disseminating information on employment opportunities. Temporary positive measures could only be adopted in areas stipulated in the Anti-discrimination Act and were only retained until the inequality leading to their adoption had been removed.

36. **Mr. Pollák** (Slovakia) said that the Anti-discrimination Act did not allow Slovakia to

address the Roma issue by means of positive discrimination. The main goal of the Roma policy was to ensure the equal and dignified coexistence of the majority and minority populations by removing inequalities, mistrust and violence. The goal was to integrate minorities physically into mainstream society and, above all, to provide them with the opportunity to realize their aspirations and use their skills, on an equal basis, so that they could live a decent life. Hence the concept of integration could be found in all strategic documents, as well as in national and local programmes and projects.

37. According to the 2001 census there were 89,000 Roma in Slovakia, but unofficially there were around 360,000. A new census would be conducted in May 2011 and formal and informal efforts were under way to raise the awareness of minorities about its potential benefits and thus increase the probability of a more accurate result. About half the Roma were already integrated, but the other half still lived in around 600 highly disadvantaged settlements.

38. Current public opinion among most of the Slovak population considered the integrated Roma to be their neighbours and colleagues. In the case of the settlements, poverty had to be overcome, before dealing with the issue of discrimination; however that was easier said than done as the problem had been long neglected. The first goal was to identify professionals to work with the settlement communities. In the past, many programmes and projects had been initiated, including community centres, health care facilities, and Roma police, and the most successful ones should be maintained. However, it was necessary to establish standards and define the role of the State and of civil society organizations.

39. The legislation on socially excluded communities automatically included Roma settlements, enabling the Government to be more effective when addressing the multifaceted issues of the Roma communities. Roma citizens could be provided with temporary employment doing public benefit work, including the required training and requalification. However, changes were required in the social benefits system to motivate recipients, most of whom were Roma, to look for work. Currently it was more advantageous not to work due to low salaries and high benefits.

40. Regarding the representation of women in the public administration, as a result of the December 2010 elections, the first Roma female mayor had been elected, and both the co-President and the Prime Minister were women.

41. **Ms. Ondrášová** (Slovakia), referring to the issue of education for the Roma, said that the 2008 School Act dealt with the issue of special schools, schools for persons with disabilities and education for foreigners, on the basis of equal access to education and training. All forms of discrimination were prohibited, particularly segregation, and special types of education were provided based on a student's potential. The law also provided for children with special educational needs, especially disabled children, but also gifted children, as well as students from a socially disadvantaged background.

42. Few Roma children attended regular schools, and many had been placed in special schools as a form of assistance. However, the law had recently been amended to establish that children could only be transferred from regular schools to special schools following the expert opinion of a doctor or an educational centre confirming that they suffered from some form of disability. A major survey of schools had been conducted in 2005 which had identified where children had been wrongfully placed in special schools. Since then, the State had inspected about one fifth of state schools and not found any children who had been transferred without a verified mental disability.

43. School attendance was compulsory only at regular elementary schools and children could not be placed in special schools merely because of poor grades or inattention. Following the adoption of the 2004 Anti-discrimination Act, Slovak schools adopted two forms of integration: the integration of children with special needs who were included in classes with other children but received special attention based on their individual educational needs, and the establishment of special needs programmes for children with problems relating to hearing, eyesight, motor skills or autism, with specific criteria for each case.

44. Records had to be kept of children placed in a special school or class, and the school principal had to inform their parents and explain the advantages and disadvantages and any other significant factors. Parents then signed a consent form which was sent to the educational authorities for approval. The School Act included a special article on education for foreigners.

Children of asylum-seekers or refugees and minors without guardians were all provided with education funded by the national budget under the same conditions as Slovak children. In addition, language training was provided to remove language barriers.

45. **Ms. Liptáková** (Slovakia) said that Act No. 576 (2004) on health care and health care-related services had defined how sterilizations could be conducted. Since its adoption, sterilizations had been carried out only at the applicant's request and at least 30 days after informed consent, which could be revoked at any time; there was no systematic sterilization. Health personnel were obliged to provide an adequate explanation ensuring that the patient understood what was involved; the briefing had to include information on alternative methods of contraception and on the reasons for and the medical consequences of sterilization. The procedure was paid for by the individual, not from the public health budget. In 2004, an autonomous body had been established to monitor health care and, to date, it had not recorded any complaints of illegal sterilizations. The non-governmental organizations mentioned should inform the Government of specific cases with the corresponding evidence to support their allegations.

46. **Ms. Jančulová** (Slovakia) said that the Government had stated in its 2010-2014 Manifesto that it wished to promote the flexible and efficient functioning of all institutions and mechanisms aiming at protecting human rights, including the National Centre for Human Rights, which was part of the overall network of bodies monitoring human rights and equality. The Centre's mandate needed to be strengthened by law so that it could monitor court decisions, including sanctions imposed, and additional tasks should be defined so that it could encompass all areas, including migrants and prisoners. Furthermore, its independence and plurality should be strengthened in line with the Paris Principles.

47. Currently the tasks that the Centre could perform were limited by existing laws that did not fully reflect the needs or international standards and did not allow it to achieve its full potential. The Act establishing the Centre required amendment based on the Paris Principles and on the lessons learned to date. Emphasis should be placed on monitoring the entire spectrum of human rights, and on transparency and adequate public control and scrutiny. Based on Slovakia's international commitments, the Centre required an appropriate budget not only for itself, but also for its seven regional offices. The Government was currently preparing an analytical report of the Centre's activities with conclusions and recommendations.

48. Regarding relations between the National Centre for Human Rights and the Ombudsman, the Centre was an autonomous body whose duties included providing legal assistance to victims of discrimination. With the 2008 amendment of the Anti-discrimination Act, an action could be filed before the courts when group rights had been violated or if an action was contrary to public interest, not just when an individual sought redress for discrimination. On the other hand, the Ombudsman was an independent body established by law to protect the fundamental rights of physical and legal persons in actions before public administration bodies in the case of acts or omissions that violated Slovak law.

49. The Anti-discrimination Act also included provisions relating to sexual minorities and employment. The office of the Deputy Vice Prime Minister for Human Rights was preparing a draft amendment concerning the principles of equal treatment regardless of religion, disability, age or sexual orientation that established regulations for dealing with cases of discrimination in employment. The Government supported NGOs working to raise public awareness with regard to any type of minority.

50. **Ms. Vozáryová** (Slovakia) said that, as a member of the Schengen Agreement, Slovakia was responsible for foreigners residing within its territory. No one legally in the country could be subject to refoulement, nor could anyone be extradited to a country where there was threat of torture or persecution based on religion, race or political opinions or where a death sentence had been imposed or proceedings were under way that could result in capital punishment. Under Slovak law, investigations involving foreigners always began by examining whether such obstacles to administrative refoulement existed; and if they existed the individual was allowed to stay.

51. In the case of Mustapha Labsi, an Algerian extradited to Algeria contrary to the recommendations of the European Union due to the threat of torture, the individual had already been sentenced for acts of terrorism in France and to expulsion from that country. He was therefore extradited to Algeria following two diplomatic guarantees provided by the Algerian Government that he would not be sentenced to death or

life imprisonment. Slovakia was currently facing proceedings by the European Court of Human Rights, as he could be subjected to torture.

52. Regarding the expulsion of illegal residents, the European Court of Human Rights had declared that asylum-seekers should not be returned to Greece because that country did not offer adequate conditions for humane treatment; Slovakia would abide by that ruling.

53. **The Chairperson** invited the members of the Committee to pose follow-up questions.

54. **Ms. Motoc**, returning to the issue of sterilization, said that the report received from NGOs referred to a mission to investigate the possible genocide of Roma in Slovakia over the period 1997 to 2002. The organizations had complained that the mission had not investigated other related crimes.

55. On the subject of discrimination towards Roma in Eastern Europe, she asked whether Slovaks felt that their image internationally had been affected by the Roma who had emigrated and whether that had led to discrimination at home. It appeared that the delegation viewed the Roma issue primarily as a social problem, but it was also necessary to consider issues of identity. A balance should be sought between the two approaches.

56. **Sir Nigel Rodley** said that the Committee against Torture had recently expressed concern that the body responsible for investigating ill-treatment in Slovakia might not be sufficiently independent. He asked whether that concern had been followed up. The Committee also regretted the lack of information on whether an independent body had been established with the right, inter alia, to make unannounced visits to all places of deprivation of liberty, including police stations and pretrial detention facilities. It would be useful to know what measures of protection were in place for people in police detention and whether those measures were monitored by an independent body.

57. He trusted that those Roma women who had appeared before the investigation into sterilizations had not been confronted by intimidating language which could have been a deterrent to collaboration. The delegation should provide more information and statistics on the number of sterilizations that had taken place since the end of the communist regime and also whether statistics existed on the distribution of sterilizations. It would also be interesting to know the percentage of sterilizations of women of Roma origin and of other ethnic backgrounds, as opposed to the general population, because that could reveal how the law was being monitored.

58. **Mr. Bouzid**, referring to the special group set up to investigate all cases of forced sterilization in 2007, said that the delegation should provide information on the cases that had been brought before the group and the results obtained to date.

59. **Ms. Vozáryová** (Slovakia) said that the allegations of the forced sterilization of Roma women in eastern Slovakia had raised major concerns in the Government, which immediately took action to investigate them and to initiate criminal proceedings. The investigative team had endeavoured to be impartial and was composed of people from a different region, headed by a woman, and assisted by four female investigators. Respected institutions had been asked to provide expertise, and the Health Ministry had appointed a gynaecologist/obstetrician to conduct an independent expert appraisal on 67 obstetric departments in Slovak hospitals. No criminal offences were uncovered; nevertheless, the investigation revealed shortcomings in legislation and also identified some administrative errors. None of the experts found any instances of discrimination against Roma women, or their segregation. In regions where a higher proportion of Roma women could be expected among the patients, they found a much lower frequency of sterilizations and caesarean sections among the Roma. Hence, the team found that no law had been violated and that sterilizations were conducted regardless of the ethnicity of patients.

60. The allegations made by the non-governmental organizations referred to sterilizations conducted in the interests of protecting the health or even the life of the women and were in keeping with the laws applicable at the time. The Committee on the Elimination of Discrimination against Women had been informed that a woman had died following the procedure. Based on information provided by the Government, the Committee had decided to cease examining the matter. However, it had expressed concern that illegal or forced sterilizations could have been committed in Slovakia in the past and recommended that the Government should make reparation to victims. As a result, the Government had taken measures to ensure non-discriminatory access to health care, and to define

voluntary and informed consent to sterilization. A new crime of illegal sterilization had been introduced into the Criminal Code, and a 30-day waiting period was mandatory between consent and the procedure.

61. **Mr. Pollák** (Slovakia) said that the Roma population of Slovakia was undergoing a major emancipation process. Indeed, the Roma problem did not involve social issues alone; nevertheless, poverty was concentrated in the Roma settlements where social issues must be resolved. The range of actions was much broader; for example, a standardized Roma language had been adopted and a variety of cultural activities supported.

62. Regarding the migration of Roma abroad in the 1990s, many destination countries of large numbers of Roma were taken by surprise, in particular by the speed with which it had occurred. Nowadays, even though Slovak Roma travelled abroad, they were not a source of major problems. Most had migrated to the United Kingdom, and Slovakia was in constant communication with the national authorities there who were continually monitoring the situation.

63. With regard to the allegations of specific police officers ill-treating Roma children (question 13), charges of abuse of public authority had been brought and criminal proceedings filed. The district court that heard the case against 10 officers had added charges of bullying and extortion, and all the accused were sentenced as charged. The judgment was not yet final as an appeal could be filed.

The meeting rose at 6 p.m.